

**Remarks by Dr. Jeffrey Herbst
Accepting The Media Institute's
2017 Freedom of Speech Award
September 27, 2017**

Thank you George Irish for that kind introduction. I have been privileged to work with George for the last two years and know his profound commitment to free speech.

I would also like to thank the Media Institute for their kindness in bestowing this award. I have participated in many of the Institute's programs and been an avid consumer of their products so I know the high quality and attention that the organization brings to critical issues.

I am greatly saddened that Patrick Maines could not be with us tonight. Patrick was one of the first people to reach out to me when I came to Washington and I have greatly benefitted from his counsel and appreciated his friendship. I know that I join all of you in wishing him good health in the future.

When asked about state of free speech in this country, I am reminded of an Israeli diplomat who gave a long presentation about his region. At the end, he was asked to sum up the state of the Middle East in one word. He said Good. He was then asked to sum up the state of the region in two words. He said Not Good.

For all our problems, which I will discuss shortly, it should never be forgotten that we are living at a time of the greatest explosion of free speech in human history. The gatekeepers have been torn down and now anyone with a smartphone can enter the global conversation. The teenager who has millions of followers on YouTube while spending almost nothing to advertise is no longer even that remarkable. The web is in many ways the First Amendment realized. **Good.**

Not surprisingly when there is a revolution in human communications in just a few short years that was anticipated by very few, there are problems. I am worried, at the start of this new era, when we should be taking steps to institutionalize our new achievements in free expression, we are in making some important mistakes. **Not Good.**

Let me briefly discuss three areas that have been of concern to me.

First, the state of free expression on campus. Colleges and universities should be bastions of free expression and should be leading the way in this new era. However, there are problems on campus but not the ones we usually focus on. There has been an overemphasis on the incidents, deeply unfortunately in and of themselves, when speakers are chased off podiums. Yes, it matters that Charles Murray was not allowed to speak at Middlebury. What matters much more is that administrators on several hundred campuses probably decided after Middlebury that it was too risky to invite him. The real issue of the day is not what particular campus censors what particular speaker but if all 4,000 colleges and universities are becoming the exemplars of free speech in an age when we should be looking to them to set the example.

I have also been greatly distressed that minority students have shown particular skepticism about the importance of free speech, as has now been demonstrated by many surveys. This is a reversal from the 1960's when Dr. Martin Luther King and his colleagues saw the five freedoms of the First Amendment as central to their struggle for equality in America. Rights matter most to those who are marginalized because the powerful will always have other ways of expressing themselves. It is also a delusion to believe that you can censor some today without having your own rights restricted tomorrow. We must make a particular effort to convince those who feel marginalized or powerless

that the First Amendment is critical to their own efforts at empowerment.

Second, there has been an unfortunate reaction to the many ugly voices that the web has unearthed and partially empowered. As a Jew, I was distressed by the Nazis and Klan who shouted at Charlottesville that “Jews will not replace us.” However, I believe that the calls for these bigots to have their rights restricted or to be kick off the internet were wrong. They do have the same First Amendment rights as anyone else, even though I fully acknowledge that they would not grant me those rights if they were in power. Perhaps as important, I want the US to see that we have Nazis and Klan among us and to discuss how to cure the ills of our society that they represent. Pushing them off our screens may be a temporary salve but not a permanent solution. Of course, they should be prosecuted if they commit crimes, including murder.

Finally, we have to have much greater discussion about what I call the private provision in public discourse. In just a few short years, Alphabet, Facebook and Twitter have become the platform for how much of our public discussion occurs. Of course, in the past privately owned newspapers and televisions performed much the same role. However, there were hundreds of these properties and it was pretty clear how they worked.

Now we have only a few companies that hold enormous power over how we discuss issues. Their algorithms were always opaque to users. Not it has become clear that in important ways they themselves do not understand how their platforms can be manipulated.

The technology companies have much to do and they are slowly learning that they must do much more. However, at the end of the

day, they must attend to shareholders who have high expectations about future returns.

The real challenge will be to educate citizens about how to use these platforms and the opportunities and dangers they pose. I wish that 1/100 of the ink, well pixels, that was recently spilled talking about the latest Iphone's glass cover and its lack of a home button could have been devoted to how public discourse will change now that these devises have become ubiquitous. However, the allure of the bright shiny thing is powerful.

I could go on at length but the with rights come responsibilities and I promised the organizers a short speech. The challenge of free speech in this new era are wonderful and terrifying, good and not good. I look forward to working with you to create at public discourse we can all be proud of.